RESTRICTION ELECTION FACSIMILE TRANSMISSION

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TO EXAMINER:	CHUNDURU, Suryaprabha
ART UNIT:	1637
APPLICATION NUMBER:	09/804,700
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Patent
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Date: October 30, 2002 By: Shawn Henry

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	LADNER, Robert D. *et al.*
APPLICATION NO.:	09/804,700
FILED:	March 13, 2001
FOR:	URACIL DNA METABOLISM AS TARGET FOR CHEMOTHERAPY: SCREENING ASSAYS AND RELATED METHODS
EXAMINER:	CHUNDURU, SURYAPRABHA
ART UNIT:	1637

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

On October 2, 2002, the Examiner mailed a Restriction Requirement with a one-month reply date set for November 2, 2002. Applicants hereby submit a timely response.

The Office Action restricted the claims into three groups: Group I, directed to a method for determining whether a test compound induces uracil misincorporation into DNA; Group II, directed to a kit; and Group III, directed to a method for determining the effectiveness in a patient of chemotherapy. Applicants hereby elect to proceed with Group I (claims 1 – 10 drawn to a method for determining a test compound induces uracil misincorporation in to DNA). This election is made with traverse, as explained below.

The Commissioner is authorized to charge any fees required by the filing of these papers to Perkins Coie's Deposit Account No. 50-0665.

Traverse

The examiner has required restriction among the claims directed to a method for determining whether a test compound induces uracil misincorporation into DNA and the two single claims directed to a kit for determining whether a test compound induces uracil misincorporation into DNA and to a method for determining the effectiveness in a patient of chemotherapy targeting conversion of dUMP to TMP, respectively. While it is conceded that the inventions are distinct, applicants respectfully traverse the restriction requirement as applied to the method of claims 1-10 and the corresponding kit of claim 11, as well as the corresponding method of claim 12. As stated in MPEP 803, "if the search and examination of an entire application can be made **without serious burden**, the examiner must examine it on the merits, **even though it includes claims to independent or distinct inventions**." Applicants respectfully submit that the method claims of Group I, the kit claim of Group II, and the method claim of Group III would not impose a severe burden on the process of examination. Patents containing claims to different methods, kits, and compositions are routinely granted without requiring restriction therebetween, as evidenced by the following patents:

Patent Number 6,469,058:

1. A ***combination*** of antineoplastic agents comprising an antitumor amount of acetyldinaline and an antitumor amount of gemcitabine, a pharmaceutically acceptable salt thereof, capecitabine, or cisplatin.

6. A ***method*** of treating cancer comprising administering to an animal in need of treatment an antitumor amount of a combination of claim 1.

11. A ***kit*** comprising acetyldinaline in one compartment and gemcitabine or a pharmaceutically acceptable salt thereof in a second compartment;

Patent Number 6,468,735:

1. A ***method*** of analyzing the angiogenesis modulating effect of a compound, comprising the steps of:
(a) incubating a sample that comprises of a fragment of porcine carotid artery with the compound;
(b) generating images of the sample; and
(c) quantitating the images to determine the extent of angiogenesis.

11. A ***kit*** for analyzing the angiogenesis modulating effect of a compound, comprising a fragment of porcine carotid artery in a medium with sufficient nutrients to allow growth of new vascular tissue;

and **Patent Number 6,465,620:**

1. An ***isolated polypeptide*** comprising the amino acid sequence of SEQ ID NO: 4.

2. A ***composition*** comprising the polypeptide of claim 1 and a carrier.

3. A ***kit*** comprising the polypeptide of claim 1.

4. A ***method for detecting*** the polypeptide of SEQ ID NO:4 in a sample comprising:
a) contacting the sample with a compound that binds to and forms a complex with the polypeptide under conditions and for a period sufficient to form the complex; and
b) detecting formation of the complex, so that if a complex formation is detected, the polypeptide of SEQ ID NO:4 is detected.

5. A ***method of producing*** the polypeptide of SEQ ID NO:4, comprising:
a) culturing a host cell genetically engineered to contain a polynucleotide sequence encoding the polypeptide of SEQ ID NO:4 for a period of time sufficient to express the polypeptide in said cell; and
b) isolating the polypeptide from the cell culture or cells of step (a).

Applicants therefore respectfully seek reconsideration and withdrawal of the requirement with respect to the inventions of claims 1-10 and claim 11.

Respectfully submitted,
Perkins Coie LLP

Dated: 10/29/02 By: _____
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